

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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STEVEN JOHNSON,
Plaintiff,

v.
HILV FEE LLC, *et al.*
Defendants.

Case No. 2:18-cv-01381-RFB-BNW

ORDER

Motion for Summary Judgment
(ECF No. 115)

I. INTRODUCTION

Before the Court is Defendants' HILV Fee LLC and NAV-115 E. Tropicana, LLC ("Defendants") Motion for Summary Judgment. ECF No. 115.

II. PROCEDURAL BACKGROUND

Plaintiff filed the Complaint on July 26, 2018. ECF No. 1. On February 2, 2019, Defendants filed a Motion to Dismiss. ECF No. 24. On September 6, 2019, the Court denied the Motion to Dismiss. ECF No. 55. On May 4, 2020, Plaintiff filed a Motion to Add Claim/ Amend Complaint and Pleadings. ECF No. 82. A response and reply were filed. ECF Nos. 86, 92. On August 14, 2020, Defendants filed this instant Motion for Summary Judgment. ECF No. 115. A response and reply were filed. ECF Nos. 123, 128. On March 5, 2021, the Court heard oral argument regarding the Motion to Add Claim/ Amend Complaint and the Motion for Summary Judgment. ECF No. 131. The Court denied the Motion to Add Claim/ Amend Complaint and stated that it would issue a written order for the Motion for Summary Judgment. Id. This written order now follows.

III. FACTUAL BACKGROUND

The Court finds the following findings of disputed and undisputed facts:

A. Undisputed Facts

The Court finds the following facts to be undisputed.

In the early morning of July 25, 2016, Plaintiff was assaulted by unknown individuals at the Hooters Hotel bar. Later that morning, Plaintiff was with nonparty, Ms. Navarro, at her Hooters Hotel room. Because hotel security received information that Ms. Navarro could be in danger, Hooters Hotel security contacted the Las Vegas Metropolitan Police Department, Clark County Fire Department, and American Medical Response (“First Responders”). The First Responders broke down the door to Ms. Navarro’s room, entered the room, detained Plaintiff, and transported him to Spring Valley Hospital. Plaintiff sustained injuries. Plaintiff does not know the identities of the people who entered his room, and his first memory after the First Responders entered his room was waking up at the hospital.

B. Disputed Facts

Parties dispute over who were the individuals who entered his room, when they entered his room, and whether they were under Defendants’ custody and control.

IV. LEGAL STANDARD

Summary judgment is appropriate when the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, show “that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a); accord Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986). When considering the propriety of summary judgment, the court views all facts and draws all inferences in the light most favorable to the nonmoving party. Gonzalez v. City of Anaheim, 747 F.3d 789, 793 (9th Cir. 2014). If the movant has carried its burden, the non-moving party “must do more than simply show that there is some metaphysical doubt as to the material facts.... Where the record taken as a whole could not lead a rational trier of fact to find for the nonmoving party, there is no genuine issue for trial.” Scott v. Harris, 550 U.S. 372, 380 (2007) (citation and internal quotation marks omitted) (alteration in original).

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1 **V. DISCUSSION**

2 Defendants argue that Plaintiff does not meet the elements of his three causes of action:
3 negligence, battery, and assault, because there is no evidence that shows a genuine dispute as to
4 whether any agent or employee under Defendants' control and supervision entered Plaintiff's room
5 and allegedly injured him. Defendants argue that hotel security never entered the room, First
6 Responders entered the room, and Defendants should not be vicariously liable for the actions of
7 the First Responders. Among other evidence, Defendants provide a Hooters Hotel Incident Report,
8 dated July 25, 2016, that states, "At approximately 6:05 AM, Security was notified that Mr.
9 Johnson was back inside of the room and was going to hurt himself and others. Security Officer
10 Greg Lookner, Security Officer Eduardo Rojas, and I attempted to make contact with Mr. Johnson
11 but was unsuccessful due to him barricading the door and refusing to open it. Las Vegas
12 Metropolitan Police Department (LVMPD), Clark County Fire Department (CCFD) and American
13 Medical Response (AMR) was contacted and arrived on property at approximately. Contact was
14 made with Ms. Navarro in room 554 to make sure she was safe from Mr. Johnson. CCFD was able
15 to open the door to room 821 at approximately 07:08 AM for LVMPD to enter and detain Mr.
16 Johnson." ECF No. 115-7.

17 Plaintiff argues that there is a genuine issue of material fact over whether the individuals
18 who entered the room were under Defendants' control and supervision. Plaintiff also argues that
19 there is a genuine dispute of material fact about when Plaintiff was allegedly assaulted, and that
20 Defendants breached a duty to Plaintiff when they failed to properly supervise the First Responders
21 and ensure Plaintiff was not injured.

22 The Court finds that there is no genuine dispute of fact, and that Defendants' Motion for
23 Summary Judgment is granted. Plaintiff has failed to show there is a genuine dispute that
24 Defendants' employees never entered Plaintiff's hotel room, and never touched or threatened
25 Plaintiff. Plaintiff does not know who entered his room and lacks evidence to prove his claim that
26 it was hotel security. Plaintiff offers no competing evidence to the LVMPD records, Incident File
27 Report, and declaration of Alejandro Salas who wrote portions of the Incident File Report about
28 why, when, and how First Responders entered the room. Plaintiff cannot argue for the existence

1 of a disputed fact(s) without offering some evidence to support the existence of dispute. Simply
2 speculating about what happened about what may have happened is not enough to survive a Motion
3 for Summary Judgment.

4 Plaintiff asserts that Defendants are vicariously liable for the actions of the First
5 Responders and had a duty to ensure that Plaintiff was not injured by their actions. However,
6 Plaintiff fails to show, legally or factually, how these First Responders acted under the agency or
7 supervision of Defendants. Plaintiff does not provide evidence that the First Responders are
8 Defendants' employees or provide facts that show that Defendants should be liable for the First
9 Responders' actions. Overall, absent any evidence to create a genuine issue of disputed fact,
10 Plaintiff's assault, battery, and negligence claims necessarily fail.

11 **VI. CONCLUSION**

12 **IT IS HEREBY ORDERED** that Defendants' Motion for Summary Judgment
13 (ECF No. 115) is GRANTED. The Clerk of Court is instructed to enter judgment accordingly and
14 close this case.

15 DATED: March 31, 2021.



RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE